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Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 256, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 256) to amend title 11 of the United States Code, and for other purposes.

Pending:

Feingold Amendment No. 17, to provide a homestead floor for the elderly.

Akaka Amendment No. 15, to require enhanced disclosure to consumers regarding the consequences of making only minimum required payments in the repayment of credit card debt.

Leahy Amendment No. 26, to restrict access to certain personal information in bankruptcy documents.

The PRESIDING OFFICER. Under the previous order, there will be 20 minutes of debate, equally divided, prior to a vote on amendment No. 17.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I appreciate this opportunity to speak further on my amendment which I offered yesterday. I urge my colleagues to support my senior homeowner protection amendment, amendment No. 17.

As I explained yesterday, my amendment would protect senior homeowners who need to file for bankruptcy relief. It would help to ensure that these older Americans do not have to lose their hard-earned homes in order to seek the protection of the bankruptcy system.

The homestead exemption in the bankruptcy laws is supposed to protect homeowners from having to give up their homes in order to seek bankruptcy relief. But in too many States, the homestead exemption is woefully inadequate. The value of this exemption varies widely from State to State. Federal law currently creates an alternative homestead exemption of just under \$20,000, but each State gets to decide whether it will allow its debtors to rely on this already low Federal alternative, and most do not. In many States, the amount of equity a homeowner can protect in bankruptcy has

lagged far behind the dramatic rise in home values in recent years. For example, in the State of Ohio the homestead exemption is only \$5,000, and in the State of North Carolina the homestead exemption is a mere \$10,000. Even for States that have no State exemption but allow debtors to use the \$20,000 Federal exemption, like New Jersey, the number is just too low in this age of rising housing costs.

My amendment would create a uniform Federal floor for homestead exemptions of \$75,000, applicable only to bankruptcy debtors over the age of 62. States could no longer impose lower exemptions on their seniors. If a State's exemption is higher than \$75,000, however, that exemption would still apply. My amendment creates a floor, not a ceiling.

Older Americans desperately need this protection. Americans over the age of 65 are the fastest-growing age group filing for bankruptcy protection. Job loss, medical expenses and other crises are wreaking havoc on the finances of our seniors. In the 1990s, the number of Americans 65 and older filing for bankruptcy tripled. They need our help.

Older Americans also are far more likely to have paid off their mortgages over decades of hard work, making the homestead exemption particularly important for them. In fact, more than 70 percent of homeowners age 65 and older own their homes free and clear. For these seniors, their home equity often represents nearly their entire life savings, and their home is often their only significant asset. That means seniors are hit hardest by the very low homestead exemptions in some states.

It has become apparent that when there is no substantive argument against a worthy amendment, we will hear arguments cautioning against the unraveling of delicate compromises and agreements. It has become a convenient and frequent refrain on the floor of the Senate, that amendments cannot be tolerated. That is very troubling, particularly because in the Judiciary Committee we were implored to hold our amendments for the floor and promised that supporters of the bill would work with us to try to resolve our concerns. There is a bait and switch going on here. Bills that come before this body are not sacrosanct. If there is a substantive argument to be made against my amendment, I am eager to hear it and debate it. But it is just not right to say that an amendment will be defeated because the bill must remain "clean" to pass.

It is especially wrong to make that argument when it is just not true. Some amendments might be termed poison pills, but that term does not apply to this amendment.

To be frank, my amendment simply has no bearing whatsoever on the other provision of the bill that addresses the homestead exemption—that is, the provision whose delicate balance we have been so strongly cautioned not to disrupt.

Section 322 of the bill addresses abuses resulting from the fact that some States have unlimited homestead exemptions. An agreement on that provision—often called the Kohl amendment after my senior colleague from Wisconsin, who led the fight against these abuses—was reached in the 2002 conference. Senators from the States that had unlimited homestead exemptions, such as Florida and Texas, objected strenuously to a Federal ceiling preempting their States' unlimited exemptions. They agreed to the provision only when it was modified to its current version, in which the Federal cap applies only to people engaging in fraud and people who purchase property shortly before filing for bankruptcy.

My amendment has no bearing whatsoever on that compromise deal. The Senators who initially objected to Senator Kohl's attempt to limit wealthy debtors' abuse of the homestead exemption are from States where the homestead exemption is already unlimited. In those States, my uniform Federal floor would have absolutely no effect. The unlimited exemption would still apply.

On the other side of the negotiations were people like Senator Kohl who were attempting to prevent wealthy debtors from abusing the homestead exemption by buying multi-million dollar mansions in States with unlimited homestead exemptions. I have not heard them object to giving seniors a uniform homestead exemption that is less than the Federal ceiling provided in Section 322. Once again, my amendment has absolutely no effect on the deal that was cut.

I would also point out that supporters of the bill are perfectly willing to override State decisions with regard to homestead exemptions in certain circumstances. This bill already requires that a Federal maximum exemption apply to prevent abuse by wealthy debtors seeking to hide their assets in a mansion and get rid of their debts through bankruptcy. Why can't we insist on a Federal floor to protect senior citizens? It makes no sense to suggest that this amendment violates State prerogatives on the homestead exemption since the bill already does just that.

So I am having a hard time figuring out who would object to my amendment, and what delicate compromise is going to be undone if my amendment passes. Is anyone going to stand on the floor of the Senate and defend the right of States to harm the elderly by forcing them to sell their homes in order to seek bankruptcy protection? Are we really going to take the States rights argument that far?

So my amendment has nothing to do with compromises already made in this bill. It would not unravel the bill, or upset the compromise on the homestead exemption. Now the credit card companies probably don't like this amendment because it will protect